

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BRADLEY STEPHEN COHEN,

Plaintiffs,

v.

ROSS B. HANSEN, et al.,

Defendants.

Case No. 2:12-cv-01401-JCM-PAL

ORDER

(Rqst for Clarification – Dkt. #179)

Before the court is Plaintiffs' Request for Clarification Re: Magistrate Judge's May 8, 2014 Order Excluding Evidence of Plaintiffs' Special Damages (Dkt. #179). The court has considered the Motion, Defendants' Response (Dkt. #182), Declaration of Dean G. Von Kallenbach Supporting Defendants' Response (Dkt. #184), and Plaintiffs' Reply (Dkt. #186).

The court entered a written Order (Dkt. #178) May 8, 2014, following an April 22, 2014 hearing on Defendants' Motion to Exclude Evidence Regarding Plaintiffs' Actual Damages (Dkt. #150). The court orally ruled from the bench after extensive arguments from both sides, indicating a written order would follow. Plaintiffs now seek clarification and modification of the written order suggesting the written order is not consistent with the court's remarks at the time of the hearing.

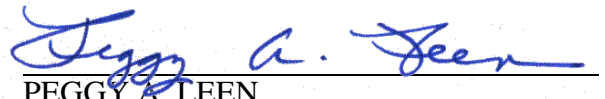
The court entered a written order to more fully articulate the ruling and the rationale for the ruling. The written order summarizes the parties' positions on the merits of the motion, quoted extensively from the transcript of the hearing, cited the law applicable to the parties' disputes, and decided the motion. The order was careful to point out that its resolution of the parties' motion did not presume to decide the issues before the district judge in the motion for summary judgment. However, because the court found that preclusion sanctions were appropriate and the decision granting Defendant's request for preclusion sanctions might be

1 adopted by the district judge, the court applied the Ninth Circuit five-factor test for consideration
2 of case-dispositive sanctions. The order meant what it said. The court found that to permit
3 Plaintiffs to now claim that they have quantifiable monetary damages in any context in this case
4 would reward the type of gamesmanship and trial by ambush the Federal Rules of Civil
5 Procedure and the cases construing them were designed to avoid.

6 Having reviewed and considered the moving and responsive papers,

7 **IT IS ORDERED** that Plaintiff's request for Clarification Re: Magistrate Judge's May 8,
8 2014 Order Excluding Evidence of Plaintiffs' Special Damages is **GRANTED** to the extent that
9 the court clarifies the written order expressed exactly what the court intended. Plaintiffs' request
10 to modify the order is **DENIED**.

11 DATED this 23rd day of June, 2014.

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14 PEGGY A. LEEN
15 UNITED STATES MAGISTRATE JUDGE
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